

AMENDED IN ASSEMBLY MARCH 11, 2010

AMENDED IN ASSEMBLY JULY 13, 2009

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE MAY 5, 2009

SENATE BILL

No. 4

Introduced by Senator Oropeza

December 1, 2008

An act to add Section 5008.9 to the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Oropeza. Public resources: state beaches and parks: smoking ban.

(1) Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, a pipe, cigar, or cigarette on a state coastal beach or in a unit of the state park system, as defined, *except as specified*. The bill would require that the ban on smoking be in effect in units of the state park system only if the district superintendent of the state park system has posted an order in accordance with state park regulations policy that prohibits smoking in those areas, and public notice of the proposed order has been provided for at least 30 days. The bill would establish a state-mandated local program by creating a new crime.

This bill would permit the Department of Parks and Recreation or another relevant state agency to develop and post signs at a state coastal beach or a unit of the state park system to provide notice of the smoking

prohibition. The bill would require the smoking prohibition to be enforced only after signs have been posted alerting the public of the prohibition, but would authorize warnings to be given before signs have been posted.

The bill would state the intent of the Legislature with regard to the enforcement of these prohibitions.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5008.9 is added to the Public Resources
2 Code, to read:

3 5008.9. (a) For purposes of this section, the following
4 definitions apply:

5 (1) “Cigar” has the same meaning as defined in Section 104550
6 of the Health and Safety Code.

7 (2) “Cigarette” has the same meaning as defined in Section
8 104556 of the Health and Safety Code.

9 (3) “Smoke or smoking” means the carrying of a lighted pipe,
10 lighted cigar, or lighted cigarette, of any kind, or the lighting of a
11 pipe, cigar, or cigarette, of any kind, including, but not limited to,
12 tobacco or any other weed or plant.

13 (4) “State coastal beach” means a sand area that is owned,
14 operated, or under the jurisdiction of the state, an agency of the
15 state, or a department of the state and that adjoins the ocean, a bay,
16 or an estuary. “State coastal beach” does not include an adjacent
17 parking lot.

18 (5) “Unit of the state park system” means an area specified in
19 Section 5002. “Unit of the state park system” does not include an
20 adjacent parking lot.

21 (b) ~~A(1)~~ Except as provided in paragraph (2), a person shall
22 not smoke a cigar, cigarette, or other tobacco-related product on
23 a state coastal beach.

1 (2) (A) *This section shall not apply to an area of a state coastal*
2 *beach that is officially designated as a campsite.*

3 (B) *This section shall not apply to the Oceano Dunes State*
4 *Vehicular Recreation Area.*

5 (c) In units of the state park system, other than state coastal
6 beaches, a person shall not smoke a cigar, cigarette, or other
7 tobacco-related product if the district superintendent of the state
8 park system has posted an order in accordance with state park
9 regulations policy that prohibits smoking in those areas, and public
10 notice of the proposed order has been provided for at least 30 days.

11 (d) A person who violates this section is guilty of an infraction
12 and shall be punished by a fine of one hundred dollars (\$100).

13 (e) The Department of Parks and Recreation or another relevant
14 state agency or department may develop and post signs at a state
15 coastal beach and a unit of the state park system to provide notice
16 of the smoking prohibition in subdivision (b). New signs shall be
17 posted only when existing signs are replaced by the state.

18 (f) This section shall be enforced only on state coastal beaches
19 or in a unit of the state park system once signs have been posted
20 alerting the public to the smoking prohibition in subdivision (b),
21 except that warnings may be given before signs have been posted.

22 (g) *It is the intent of the Legislature, in enacting this section,*
23 *that this section be enforced using the existing resources of the*
24 *department and that this enforcement not otherwise affect any*
25 *other existing duty or authority exercised by an employee of the*
26 *department.*

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.